

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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: :
MARSH USA INC., :
: Plaintiff, : 22-CV-6656 (JMF)
: :
-v- : ORDER
: :
MICHAEL MACHUA MILLETT, :
: Defendant. :
: :
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JESSE M. FURMAN, United States District Judge:

On September 15, 2022, the Court ordered Plaintiff to amend its Complaint to affirmatively allege the citizenship of each party. ECF No. 35. On September 20, 2022, Plaintiff filed an amended complaint, ECF No. 38 (“FAC”), but did not cure the jurisdictional pleading defect the Court identified in the original Complaint. Nor did Plaintiff adequately allege diversity of citizenship in the parties’ joint status letter accompanying their proposed case management plan, ECF No. 55 (“Letter”). *See Leveraged Leasing Admin. Corp. v. PacifiCorp Cap., Inc.*, 87 F.3d 44, 47 (2d Cir. 1996) (“It is firmly established that diversity of citizenship should be distinctly and positively averred in the pleadings, or should appear with equal distinctness in other parts of the record.”) (internal quotation marks omitted).

Namely, Plaintiff did not allege its state of incorporation *and* principal place of business, FAC ¶ 19; Letter ¶ 3.¹ *See* 28 U.S.C. § 1332(c); *see also Hertz Corp. v. Friend*, 559 U.S. 77, 80 (2010) (“A corporation shall be deemed to be a citizen of any State by which it has been

¹ Plaintiff repeats its mistake from the original complaint by stating it is a “limited liability company,” FAC ¶ 19; Letter ¶ 3. Aside from the fact that Plaintiff’s name indicates that it is incorporated, Plaintiff’s Rule 7.1 Corporate Disclosure Statement, ECF No. 5, confirms that Plaintiff is a corporation, not a limited liability company.

incorporated and of the state where it has its principal place of business.”) (cleaned up). Plaintiff also alleged the residency of Defendant. FAC ¶ 20; Letter ¶ 3. For purposes of diversity jurisdiction, however, “a statement of the parties’ residence is insufficient to establish their citizenship.” *Leveraged Leasing Admin. Corp.*, 87 F.3d at 47; *see also Canedy v. Liberty Mut. Ins. Co.*, 126 F.3d 100, 103 (2d Cir. 1997) (“[A]llegations of residency alone cannot establish citizenship . . .”).

Accordingly, Plaintiff has until **November 10, 2022**, to amend its complaint to adequately allege diversity of citizenship. If, by that date, Plaintiff is unable to do so, the Court will dismiss the case without prejudice and without further notice to either party.

SO ORDERED.

Dated: November 4, 2022
New York, New York



JESSE M. FURMAN
United States District Judge